

Memorandum

To: Ana Matosantos
Director of Finance
State Capital, Room 1045
Sacramento, CA 95814

Date : December 31, 2009

From : **California Energy Commission**
1516 Ninth Street
Sacramento CA 95814-5512

Subject: Review of the System of Internal Control

In accordance with the Financial Integrity and State Managers Accountability Act of 1983, Government Code Sections 13400 through 13407, I am submitting the attached report describing the review of our system of internal control for the biennial period ended December 31, 2009.

As statutorily required, the California Energy Commission is in compliance with Government Code Section 12439 as discussed in the report.

Please contact Mary Lam at (916) 657-3843 if you have any questions.

Sincerely,


CLAUDIA CHANDLER
Chief Deputy Director

Attachment

cc: Governor Arnold Schwarzenegger
Joint Legislative Audit Committee
Bureau of State Audits
State Library

CALIFORNIA ENERGY COMMISSION
FINANCIAL INTEGRITY AND STATE MANAGER'S ACCOUNTABILITY ACT
BIENNIAL REPORT
DECEMBER 2009

PURPOSE

The Financial Integrity and State Manager's Accountability Act of 1983 (FISMA) requires each state agency to maintain effective systems of internal accounting and administrative controls, to evaluate the effectiveness of these controls on an ongoing basis, and to biennially review and prepare a report on the adequacy of the agency's systems of internal accounting and administrative controls. This document is the California Energy Commission's (Energy Commission) biennial report for the period ended December 31, 2009.

BACKGROUND

The Energy Commission does not have an internal audit unit that performs internal control reviews. The Energy Commission's Executive Management Team (including management representatives from technical divisions and administrative, legal, governmental, and media offices) is responsible for establishing policies and procedures and ensuring compliance.

Outside control agencies perform periodic reviews of the Energy Commission's internal accounting and administrative procedures. For example, the Department of General Services reviews our contracting practices and procedures. The Department of Finance, Office of State Audits and Evaluations (OSAE), performs an annual audit of our Renewable Resources Trust Fund (RRTF), which is funded from a Public Goods Charge (PGC) collected by the utilities. And although the audit is specifically focused on the RRTF and the Renewables Program, the audit reviews the Energy Commission's accounting and fiscal controls. These accounting and fiscal control systems are the same ones used on all Energy Commission funds and programs. OSAE also recently performed a programmatic review of the Energy Commission's Public Interest Energy Research Development and Demonstration Program.

METHODOLOGY

In accordance with the guidance of OSAE, for the purposes of this report, small agencies without an internal audit unit should:

- Briefly summarize their executive team discussion of potential issues and risks facing their agency;
- Identify their top issues; and,
- Develop a Corrective Action Plan to address the identified risks/issues. The Corrective Action Plan will be submitted no later than 30 days after the submission of this report.

The Energy Commission's Executive Management Team members have reviewed existing activities and controls and identified four reportable risks. A Corrective Action Plan will be prepared to address the risks/issues identified.

Issue 1: Recruitment, Training, and Retention

One of the single greatest challenges the Energy Commission has in managing its staff is the struggle to recruit, train, and retain qualified staff. The Executive Management Team recognizes the necessity of developing, nurturing and maintaining a highly talented and experienced workforce that can implement critical energy goals and objectives for California.

The Energy Commission is currently experiencing an above average amount of staff who are approaching retirement age. These core staff are made up of senior management and technical experts possessing vast institutional and program knowledge of the Energy Commission. Losing these core staff without documenting or transferring their knowledge base to mid level and entry level staff could cause significant disruptions. This may lead to the loss of institutional memory, duplication of re-learning, and wasted time and productivity. The Energy Commission will need to be proactive in backfilling pending vacancies and taking a systems approach to recording and transferring knowledge within the organization.

Issue 2: Increasing Workload

The Energy Commission continues to experience an increase in workload without the commensurate increase in resources. Over the years, the Energy Commission has been given additional responsibilities resulting from an increasing concern over the energy industries and new legislative mandates. In addition, there has been an increasing retirement rate of core staff holding vast

institutional and program knowledge of Energy Commission programs. As a result, the Energy Commission is administering and managing more contracts, grants, and loans to carry out the increasing energy concerns and implementing new legislative mandates (including the federally mandated American Reinvestment and Recovery Act programs) with the same staffing levels. This coupled with newly hired staff that lack institutional and program knowledge creates a significant concern. As the current Energy Commission staff continue to absorb additional workload without additional staffing resources, the Energy Commission is at risk of staff burnout, low morale, and deterioration in the quality of work. The concern is that the staff that are more likely to develop burnout are the Energy Commission's best, most productive staff. They are more prone to burnout as they immerse themselves in their job, and tend to personalize work issues when they cannot maintain the quality level they are used to performing due to heavy workloads. In response, the Energy Commission will attempt to obtain additional staffing resources and/or continuously reprioritize its workload to shed that work that can be deferred until higher priority work can be completed. Regardless, the Energy Commission must prevent burnout, low morale, and deterioration in work products and deliverables.

Issue 3: Effects of American Recovery and Reinvestment Act of 2009

The Energy Commission received \$314.5 million for energy efficiency and renewable energy programs through the American Recovery and Reinvestment Act of 2009 (ARRA). With the lead of the U.S. Department of Energy, the Energy Commission is tasked with administering four ARRA funded programs: the State Energy Program, the Energy Efficiency Conservation Block Grant Program, Appliance Rebate Program, and Energy Assurance Planning. With the exception of the State Energy Program, the other three programs are new to the Energy Commission and required the development of strategic planning guidelines, policies, and procedures. In addition, there are Federal requirements to ensure accountability, transparency, and reduction in fraud, waste, and abuse of the ARRA funds. Specifically, significant Federal reporting requirements are present to capture not only fiscal data but job creation, job saved data, and other Department of Energy performance metrics. Since ARRA funds are not permanent, the Energy Commission received minimal staffing resources, primarily through temporary, limited term positions to implement these new programs. The Energy Commission will look to hire consultants to assist with the monitoring, evaluation, verification and reporting requirements that accompany federal ARRA funds. Additionally, existing and new staff will be trained to provide the proper oversight and monitoring efforts to ensure project success and commensurate safeguarding of ARRA funds.

Issue 4: Updating Policies and Procedures

The Energy Commission currently has some policies and procedures in place, however, due to limited staffing resources, these policies and procedures have not been updated regularly to reflect current practices. With an increasing retirement rate, the Energy Commission is at risk of not providing adequate policy and procedure information to new staff that could lead to declines in the quality of work on Energy Commission programs and activities, as well as delays in program implementation, work products and deliverables. The Energy Commission has devoted substantial resources to developing business policies on a wide variety of subjects, but needs to re-emphasize and update these policies for existing and new staff. The Executive Management Team recognizes the importance of a clear, cohesive, and up-to-date library of policies and procedures and the need to ensure that staff are adequately informed on best business practices. The Energy Commission needs to continue to review and update their policies and procedures and ensure staff are informed on how to access and use the Energy Commission's written policies and procedures.

GOVERNMENT CODE 12439 COMPLIANCE

The Energy Commission has taken significant actions to ensure its compliance with Government Code 12439 and to successfully fill positions before they have been vacant for six consecutive months. For example, vacancies are managed through a monthly review and evaluation meeting held by the Energy Commission's Executive Management Team. This process ensures a diligent effort is made to fill every vacancy in a timely manner. Timelines are established for advertising vacancies, reviewing applications, interviewing applicants, and making job offers. Since our last FISMA report, the Energy Commission has designed a new "Careers at the Energy Commission" web site that features Energy Commission staff in their work environment, established a list server for new positions and exams, and highlights the interesting and diverse work performed at the Energy Commission. Additionally, the Energy Commission has increased its attendance at job fairs, professional association events, conferences, etc., in an attempt to market the Energy Commission's programs, to advertise the available positions, and to persuade individuals to file for exams. Exam processes have been streamlined, and work continues to make the application process for exams web-based so more potential applicants will complete in the application process. Even though many of the Energy Commission's scientific classifications have been determined to be hard-to-fill, these efforts have dramatically lowered the Energy Commission's vacancy factor during the past year.

Section 12439 also recognizes that even when certain kinds of positions do remain vacant for six months or more, the controller *shall* re-establish those positions on August 15th if they have been abolished on July 1st. Such positions include those that are "necessary for the state to satisfy any licensing requirements adopted by a local, state, or federal licensing or other regulatory

agency” as well as those that are “directly involved in services for public health, public safety, or homeland security.” All of the Energy Commission’s positions fall into these two categories because its staff is dedicated to supporting the Energy Commission’s mission to ensure adequate supplies of energy for California and to reduce wasteful use of energy within the state. In the Energy Commission’s enabling legislation (the Warren-Alquist Act -- Public Resources Code Sections 25000 et seq.) the Legislature notes:

The Legislature finds and declares that overdependence on the production, marketing, and consumption of petroleum based fuels as an energy resource in the transportation sector is a threat to the energy security of the state due to continuing market and supply uncertainties. In addition, petroleum use as an energy resource contributes substantially to the following public health and environmental problems: air pollution, acid rain, global warming, and the degradation of California's marine environment and fisheries. [§ 25000.5.]

. . . [and]

The Legislature hereby finds and declares that electrical energy is essential to the health, safety and welfare of the people of this state and to the state economy, and that it is the responsibility of state government to ensure that a reliable supply of electrical energy is maintained at a level consistent with the need for such energy for protection of public health and safety, for promotion of the general welfare, and for environmental quality protection. [§ 25001.]

. . . [and]

The Legislature finds and declares that clean and reliable energy is essential to the health of the California economy and of vital importance to the health and welfare of the citizens of the state and to the environment. [§ 25300 subd. (a).]

. . . [and]

The Legislature further finds and declares that the state government requires at all times a complete and thorough understanding of the operation of energy markets, including electricity, natural gas, petroleum, and alternative energy sources, to enable it to respond to possible shortages, price shocks, oversupplies, or other disruptions. [§ 25300 subd. (c).]

. . . [and]

The Legislature further finds and declares that timely reporting, assessment, forecasting, and data collection activities are essential to serve the information and policy development needs of the Governor, the Legislature, public agencies, market participants, and the public. [§ 25300 subd. (d).]

These and many other statutes that describe the purposes and objectives of the Energy Commission's programs recognizing that public health and safety is a principal reason for the creation of programs administered by the Energy Commission and its staff, including the unique one-stop licensing program for thermal power plants with capacity in excess of 50 megawatts that incorporates all of the public health based requirements of state, local, and federal regulatory agencies. Therefore, the Energy Commission complies with both the letter and the spirit of Government Code 12439, to eliminate positions which are no longer necessary as shown by the failure of agencies to fill them for long periods of time, both by our diligent efforts to recruit new staff when vacancies occur and also by the fact that Section 12439 is not designed to eliminate staff that serve the purposes for which the Energy Commission was created.

CONCLUSION:

The Executive Management Team recognizes that it must focus its efforts to:

- Maintain a well trained workforce that is equipped to meet the energy challenges of California,
- Secure adequate resources to respond to new federal and state mandated programs and activities,
- Effectively implement ARRA funds and provide for proper stewardship, transparency and accountability, and
- Continue to update policies and procedures to properly inform and equip staff with the tools needed to effectively perform their duties and meet program goals and objectives.